

**OPINION  
45-237**

February 28, 1945(OPINION)

PUBLIC UTILITIES

RE: Transfer of Funds

Re: Chapter 40-3312 of the North Dakota Revised Code of 1943

Your letter of February 24, addressed to the attorney general, has been handed to me for attention. It seems to me that section 40-3312 limits the power of the city to divert and transfer from the surplus in the municipal utilities fund and for the general benefit of the city.

I am of the opinion that the city water works is a public utility and that the same is controlled by chapter 40-33 of the Revised Code of 1943. I am further of the opinion that the surplus in this fund cannot be transferred and used for the purchase of fire-fighting equipment, except to the extent of the transfer allowed as above stated.

NELS G. JOHNSON  
Attorney General